

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

01 CASE NO. 0704 CR-ROETZGER

18 USC 2422(b)
18 USC 2253

MAGISTRATE JUDGE
SNOW

UNITED STATES OF AMERICA

v.

MICHAEL DANE NYBERG

INDICTMENT

The grand jury charges that:

COUNT 1

From on or about July 16, 2001 to on or about July 18, 2001, at Miami, Miami-Dade County, in the Southern District of Florida, the defendant,

MICHAEL DANE NYBERG,

did knowingly and intentionally by means of a facility of interstate commerce, that is, by computer via the Internet, attempt to persuade, induce, entice and coerce a person who has not attained the age of 18 years to engage in sexual activity for which any person can be charged with a criminal offense; in violation of Title 18, United States Code, Section 2422(b).

FORFEITURE

As a result of the foregoing offense alleged in Count One of this Indictment, the United States is entitled to forfeiture of, and the defendant,

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CLERK'S OFFICE
S.D. OF FLORIDA

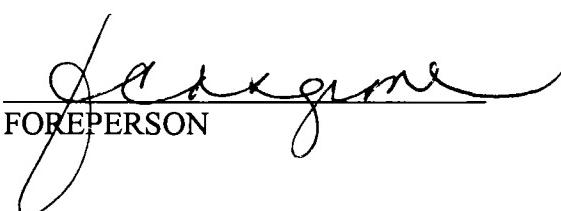

7/31/2001

MICHAEL DANE NYBERG,

shall forfeit to the United States, any and all personal property used or intended to be used in any manner to commit and to promote the commission of the aforementioned violation, including, but not limited to a Toshiba laptop computer, serial number 89938654A.

All in violation of Title 18, United States Code, Section 2253.

A TRUE BILL


FOREPERSON


GUY A. LEWIS
UNITED STATES ATTORNEY


f STEPHANIE THACKER
TRIAL ATTORNEY, DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

01 0704CR-ROETTGER

MAGISTRATE JUDGE

v.
MICHAEL DANE NYBERG

CERTIFICATE OF TRIAL ATTORNEY* SNOW

Superseding Case Information:

Court Division: (Select One)

New Defendant(s) Yes No Miami Key West
 FTL WPB FTPNumber of New Defendants Total number of counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) NO
List language and/or dialect English
4. This case will take days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) Petty Minor Misdem. Felony

I	0 to 5 days	<input type="checkbox"/>
II	6 to 10 days	<input type="checkbox"/>
III	11 to 20 days	<input type="checkbox"/>
IV	21 to 60 days	<input type="checkbox"/>
V	61 days and over	<input type="checkbox"/>

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CLERK'S OFFICE
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI, FLORIDA

6. Has this case been previously filed in this District Court? (Yes or No) NO

If yes:

Judge: _____ Case No. _____
(Attach copy of dispositive order)Has a complaint been filed in this matter? (Yes or No) YES

If yes:

Magistrate Case No. 01-3179-BANDSTRA

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) _____

7. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? Yes No If yes, was it pending in the Central Region? Yes No

8. Did this case originate in the Narcotics Section, Miami? Yes No


 MICHAEL BROWN
 ASSISTANT UNITED STATES ATTORNEY
 Court I.D. No. A5500468

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
01 070 4CR-ROETTGER
PENALTY SHEET

Defendant's Name: MICHAEL DANE NYBERG

MAGISTRATE JUDGE
SNOW

Case No:

Count #: I

Eliciting a minor

18 U.S.C. 2422(b)

* Max.Penalty: Fifteen(15) years' imprisonment

Count #:

*Max. Penalty:

=====

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CLERK'S OFFICE
U.S. DISTRICT COURT
S.D. OF FLORIDA

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.

=====

04-MCN-314
Federal Grand Jury
Imdictment Number

FORM DWD-W
REV. 83

No. 01

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Division

THE UNITED STATES OF AMERICA

vs.

MICHAEL DANE NYBERG

INDICTMENT

IN VIOLATION OF: 18 U.S.C. § 2422(b)
18 U.S.C. § 2253

A true bill.

Michael Dane Nyberg
FGJ 00-04(MIA)
Foreman

Filed in open court this 31st day.

of *JULY 2001*

Stephanie L. Schenk
Clerk

Bail, \$ -----

FILED BY [Signature] D.C.
01 JUL 24 PM 3:57
CLARENCE J. ADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA - MIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 01-3179-BANDSTRA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL NYBERG,

Defendant.

**DEFENDANT'S INVOCATION OF
RIGHTS TO SILENCE AND COUNSEL**

The defendant named above does hereby invoke his rights to remain silent and to counsel with respect to any and all questioning or interrogation, regardless of the subject matter, including, but not limited to: matters that may bear on or relate to arrest, searches and seizures, bail, pretrial release or detention, evidence at trial, guilt or innocence, forfeitures; or that may be relevant to sentencing, enhanced punishments, factors applicable under the U.S. Sentencing Guidelines, restitution, immigration status or consequences resulting from arrest or conviction; appeals or

other post-trial proceedings.

The defendant requests that the U.S. Attorney ensure that this invocation of rights is honored, by forwarding a copy of it to all law enforcement agents, government officials, or employees associated with the investigation of any matters relating to the defendant. Any contact with the defendant must be made through the defendant's lawyer, undersigned counsel.

Respectfully submitted,

KATHLEEN M. WILLIAMS
Federal Public Defender

By:

Luis I. Guerra
Assistant Federal Public Defender
Attorney for Defendant
Florida Bar No. 841961
150 West Flagler Street, Suite 1700
Miami, Florida 33130-1550
Tel: (305) 530-7000
Fax: (305)536-4559

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument was mailed this 23 day of July, 2001 to Yvonne Rodriguez-Schack, Assistant United States Attorney, 99 N.E. 4th Street, Miami, Florida 33132-2111.

Luis I. Guerra

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

APPEARANCE BOND: \$150,000 PSB
CASE NO.: _____

UNITED STATES OF AMERICA

Plaintiff,

v.

Michael Nyberg, Defendant,

I, the undersigned defendant and I or we, the undersigned sureties, jointly and severally acknowledge that we and our personal representatives, jointly and severally, are bound to pay the United States of America, the sum of \$ 150,000 PSB -.

FILED by <u>M</u> D.C.
MAG. SEC.
JUL 20 2001
CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI

STANDARD CONDITIONS OF BOND

The conditions of this bond are that the defendant:

1. Shall appear before this court and at such other places as the defendant may be required to appear, in accordance with any and all orders and directions relating to the defendant's appearance in this case, including appearance for violation of a condition of the defendant's release as may be ordered or notified by this court or any other United States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any order or direction in connection with such judgment. This is a continuing bond, including any proceeding on appeal or review, which shall remain in full force and effect until such time as the court shall order otherwise.
2. May not at any time, for any reason whatever, leave the Southern District of Florida or other District to which the case may be removed or transferred after he or she has appeared in such District pursuant to the conditions of this bond, without first obtaining written permission from the court, except that a defendant ordered removed or transferred to another district may travel to that district as required for court appearances and trial preparation upon written notice to the Clerk of this court or the court to which the case has been removed or transferred. The Southern District of Florida consists of the following counties: **Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, and Highlands.**
3. May not change his or her present address as recorded on page 4 of this bond without prior permission in writing from the court.
4. Is required to appear in court at all times as required by notice given by the court or its clerk to the address on this bond or in open court or to the address as changed by permission from the court. The defendant is required to ascertain from the Clerk of Court or defense counsel the time and place of all scheduled proceedings on the case. In no event may a defendant assume that his or her case has been dismissed unless the court has entered an order of dismissal.
5. Shall not commit any act in violation of state or federal laws.

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2/9

DEFENDANT: m. N. Nibong
CASE NUMBER: 01-3179-
PAGE TWO
B.M.D.SRA

SPECIAL CONDITIONS OF BOND

In addition to compliance with the previously stated conditions of bond, the defendant must comply with the special conditions checked below:

- a. Surrender all passports and travel documents, if any, to the Pretrial Services Office and not obtain any travel documents during the pendency of the case;
- b. Report to Pretrial Services as follows: (4 as directed or _____ times in person and _____ times by telephone;
- c. Submit to substance abuse testing and/or treatment as directed by Pretrial Services;
- d. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802), without a prescription by a licensed medical practitioner;
- e. Participate in mental health assessment and/or treatment;
- f. Participate and undergo a sex offense specific evaluation and treatment;
- g. Maintain or actively seek full-time employment;
- h. Maintain or begin an educational program;
- i. Avoid all contact with victims of or witnesses to the crimes charged, except through counsel;
- j. Refrain from possessing a firearm, destructive device or other dangerous weapons;
- k. None of the signatories may sell, pledge, mortgage, hypothecate, encumber, etc., any property they own, real or personal, until the bond is discharged, or otherwise modified by the Court;
- l. May not visit commercial transportation establishment: *airports, seaport/marinas, commercial bus terminals, train stations, etc.*; NO CONTACT WITH MONORS
- m. No access to the internet via any type of connectivity device (*i.e. computers, pda's, cellular phones, tv's*), and follow instructions as outlined in the attached agreement waiver provided to you by Pretrial Services;
- n. **HOME CONFINEMENT PROGRAM** The defendant shall participate in one of the following home confinement program components and abide by all the requirements of the program which () will not or () will include electronic monitoring or other location verification system, paid for by the defendant based upon his/her ability to pay () or paid for by Pretrial Services ().
 - Curfew: You are restricted to your residence every day from 7 am to 8 pm, or as directed by the Court.
 - Home Detention: You are restricted to your residence at all times except for: () medical needs or treatment, () court appearances, () attorney visits or court ordered obligations, and () other _____.
- o. **HALFWAY HOUSE PLACEMENT** The defendant shall reside at a halfway house or community corrections center and abide by all the rules and regulations of the program.
You are restricted to the halfway house at all times except for: () employment; () education; () religious services; () medical, substance abuse, or mental health treatment; () attorney visits; () court appearances; () court ordered obligations; () reporting to Pretrial Services; and () other _____.
- p. May travel to and from: _____, and must notify Pretrial Services of travel plan before leaving and upon return.
- q. Comply with the following additional conditions of bond:

DEFENDANT: M. Nyborg
CASE NUMBER: 01-3179-B
PAGE THREE

PENALTIES AND SANCTIONS APPLICABLE TO DEFENDANT

Violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for the defendant's arrest, a revocation of release, an order of detention, as provided in 18 U.S.C. § 3148, forfeiture of any bail posted, and a prosecution for contempt as provided in 18 U.S.C. § 401, which could result in a possible term of imprisonment or a fine.

The commission of any offense while on pretrial release may result in an additional sentence upon conviction for such offense to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be consecutive to any other sentence and must be imposed in addition to the sentence received for the offense itself.

Title 18 U.S.C. § 1503 makes it a criminal offense punishable by up to five years of imprisonment and a \$250,000 fine to intimidate or attempt to intimidate a witness, juror or officer of the court; 18 U.S.C. § 1510 makes it a criminal offense punishable by up to five years of imprisonment and a \$250,000 fine to obstruct a criminal investigation; 18 U.S.C. § 1512 makes it a criminal offense punishable by up to ten years of imprisonment and a \$250,000 fine to tamper with a witness, victim or informant; and 18 U.S.C. § 1513 makes it a criminal offense punishable by up to ten years of imprisonment and a \$250,000 fine to retaliate against a witness, victim or informant, or threaten to do so.

It is a criminal offense under 18 U.S.C. § 3146, if after having been released, the defendant knowingly fails to appear as required by the conditions of release, or to surrender for the service of sentence pursuant to a court order. If the defendant was released in connection with a charge of, or while awaiting sentence, surrender for the service of a sentence, or appeal or certiorari after conviction for:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more the defendant shall be fined not more than \$250,000 or imprisoned for not more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, the defendant shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, the defendant shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, the defendant shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be consecutive to the sentence of imprisonment for any other offense. In addition, a failure to appear may result in the forfeiture of any bail posted, which means that the defendant will be obligated to pay the full amount of the bond, which may be enforced by all applicable laws of the United States.

DEFENDANT: M. Nyborg
CASE NUMBER: 01-3179-TB AND DM
PAGE FOUR

PENALTIES AND SANCTIONS APPLICABLE TO SURETIES

Violation by the defendant of any of the foregoing conditions of release will result in an immediate obligation by the surety or sureties to pay the full amount of the bond. Forfeiture of the bond for any breach of one or more conditions may be declared by a judicial officer of any United States District Court having cognizance of the above entitled matter at the time of such breach, and if the bond is forfeited and the forfeiture is not set aside or remitted, judgment may be entered upon motion in such United States District Court against each surety jointly and severally for the amount of the bond, together with interest and costs, and execution may be issued and payment secured as provided by the Federal Rules of Criminal Procedure and other laws of the United States.

SIGNATURES

I have carefully read and I understand this entire appearance bond consisting of four pages, or it as been read to me, and, if necessary, translated into my native language, and I know that I am obligated by law to comply with all of the terms of this bond. I promise to obey all conditions of this bond, to appear in court as required, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions outlined in this bond for violations of the terms of the bond.

If I am an agent acting for or on behalf of a corporate surety, I further represent that I am a duly authorized agent for the corporate surety and have full power to execute this bond in the amount stated.

Signed this 20 day of July, 2001, at Miami, Florida.
Signed and acknowledged before me:
WITNESS: Dan G.
ADDRESS: 150 W. Pilstick
Miami, Fl. ZIP 33130

DEFENDANT
DEFENDANT:(Signature) M. Nyborg
ADDRESS: 14030 Biscayne Blvd
N. Miami, Fl. ZIP 33181
TELEPHONE: _____

CORPORATE SURETY

Signed this _____ day of _____, 20_____, at _____, Florida.
SURETY: _____
ADDRESS: _____
ZIP _____

AGENT:(Signature) _____
PRINT NAME: _____
TELEPHONE: _____

INDIVIDUAL SURETIES

Signed this _____ day of _____, 20_____, at _____, Florida.
SURETY:(Signature) _____
PRINT NAME: _____
RELATIONSHIP TO
DEFENDANT: _____
ADDRESS: _____
ZIP _____
TELEPHONE: _____

Signed this _____ day of _____, 20_____, at _____, Florida.
SURETY:(Signature) _____
PRINT NAME: _____
RELATIONSHIP TO
DEFENDANT: _____
ADDRESS: _____
ZIP _____
TELEPHONE: _____

APPROVAL BY COURT

Date: 7/20/01

Ted E. Bandstra
UNITED STATES MAGISTRATE JUDGE
TED E. BANDSTRA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 01-3179-BANDSTRA

UNITED STATES OF AMERICA,

v.

ORDER ON BOND MOTION

MICHAEL DANE NYBERT, JR.

This Cause came before the Court upon motion of the (defendant) (government) to (reduce) (increase) (modify) the bond. Upon consideration, it is

ORDERED AND ADJUDGED as follows:

The motion is denied; bond remains at _____

The motion is granted; bond is set at: _____

Personal Surety, unsecured, in the amount of

\$ 50,000 PSB

Personal Surety in the amount of \$ _____
with 10% posted with Clerk of Court.

FILED BY *[Signature]* D.C.
MAG. SEC.

Personal Surety in the amount of \$ _____
secured by the following collateral: _____

JUL 20 2001

Full Cash in the amount of \$ _____

CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

Corporate Surety in the amount of \$ _____

Full Cash or Corporate Surety in the amount of
\$ _____

In addition to the standard conditions of bond, the following special conditions are hereby imposed:

SURRENDER ALL PASSPORTS & TRAVEL DOCUMENTS TO PRETRIAL SERVICES.

REPORT TO PRETRIAL SERVICES AS FOLLOWS: WEEKLY IN PERSON; *as directed* WEEKLY BY PHONE.

SUBMIT TO RANDOM URINE TESTING BY PRETRIAL SERVICES FOR THE USE OF NON-PHYSICIAN-PRESCRIBED SUBSTANCES PROHIBITED BY LAW.

MAINTAIN OR ACTIVELY SEEK FULL-TIME EMPLOYMENT.

MAINTAIN OR BEGIN AN EDUCATIONAL PROGRAM.

AVOID ALL CONTACT WITH VICTIMS OF OR WITNESSES TO THE CRIMES CHARGED. REFRAIN FROM POSSESSING A FIREARM, DESTRUCTIVE DEVICE OR OTHER DANGEROUS WEAPON.

COMPLY WITH THE FOLLOWING ADDITIONAL SPECIAL CONDITIONS OF THIS BOND: *no contact with*

minors / no computers / curfew 1 AM - 8 AM

If bond is changed from that set in another District, the reason pursuant to Rule 40(f) is: _____

DONE AND ORDERED at Miami, Florida this day JULY , 2001.

TAPE NO. 01B-70-2557

Robert DeRosa

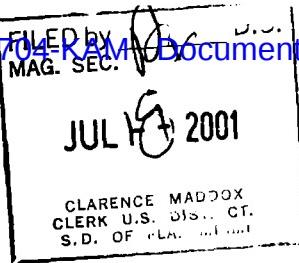
c:AUSA, Defense,
Pretrial Services, Marshal

ABRD-Jovis Guerra

T.E. Bandstra
UNITED STATES MAGISTRATE JUDGE
TED E. BANDSTRA

[Handwritten Signature]

koia.



UNITED STATES OF AMERICA

Plaintiff,

v.

MICHAEL DANE NYBERG JR.

Defendant.

ORDER ON INITIAL APPEARANCELanguage ENGLISHTape No. 01B - 68 - 2065AUSA Rodney - ShuckAgent USSS-T. DEVINE

(305) 629-1800

DOB: 8-31-79

Reg# 67568-004

The above-named defendant having been arrested on 7-18-01 having appeared before the court for initial appearance on 7-18-01 and proceedings having been held in accordance with F.R.C.P. 5 or 40(a), it is thereupon

ORDERED as follows:

1. _____ appeared as permanent/temporary counsel of record.

Address: _____

Zip Code: _____ Telephone: _____

2. HIPD appointed as permanent counsel of record.

Address: _____

Zip Code: _____ Telephone: _____

3. The defendant shall attempt to retain counsel and shall appear before the court at 10:00 A.M. on _____, 2001.

4. Arraignment/Preliminary Removal/Identity hearing is set for 10am 8-1, 2001.

5. The defendant is held in temporary pretrial detention pursuant to 18 U.S.C. Section 3142 (d) or (f) because _____

A ~~detention~~ hearing, pursuant to 18 U.S.C. Section 3142(f), is set for 10am 7-20, 2001.

6. The defendant shall be release from custody upon the posting of the following type of appearance bond, pursuant to 18 U.S.C. Section 3142:

50,000 / 10%
10/15

This bond shall contain the standard conditions of bond printed in the bond form of this Court and, in addition, the defendant must comply with the special conditions checked below:

a. Surrender all passports and travel document to the Pretrial Services Office.

b. Report to Pretrial Services as follows: _____ times a week by phone, _____ time a week in person;

other: as directed

c. Submit to random urine testing by Pretrial Services for the use of non-physician-prescribed substances prohibited by law.

d. Maintain or actively seek full time gainful employment.

3/6

MICHAEL DANE NYBERG JR.

- e. Maintain or begin an educational program.
- f. Avoid all contact with victims of or witnesses to the crimes charged.
- g. Refrain from possessing a firearm, destructive device or other dangerous weapon.
- h. Comply with the following curfew:
- i. Avoid all commercial transportation facilities; no airports, no marinas, no bus terminals.
- j. Comply with the following additional special conditions of this bond:
Not to have Contact with Computer

This bond was set: At Arrest _____

On Warrant _____

After Hearing _____

If bond is changed from that set in another District, the reason pursuant to Rule 40(f) is _____

If this space is checked, an evidentiary hearing pursuant to United States v. Nebbia, 357 F.2d 303 (2 Cir. 1966) shall be held prior to the posting of the bond. Such hearing shall be scheduled promptly upon notification to the court that the defendant is ready to post bond.

7. The defendant has been advised by the court that if he or she is released on bond pursuant to the conditions set forth herein or those later ordered by the court, the defendant is subject to arrest and revocation of release and to various civil and criminal sanctions for any violation of those conditions. These various sanctions and penalties are set forth more fully in the Appearance Bond itself.
8. The defendant is committed to the custody of the United States Marshal until an appearance bond has been executed in accordance with this or subsequent court order.

DONE AND ORDERED at Miami, Florida, this 18th day of JULY
2001 .

T.E. Bandstra
**UNITED STATES MAGISTRATE JUDGE
TED E. BANDSTRA**

c: Assistant U.S. Attorney
Defendant
Counsel
U.S. Marshal
Pretrial Services/Probation

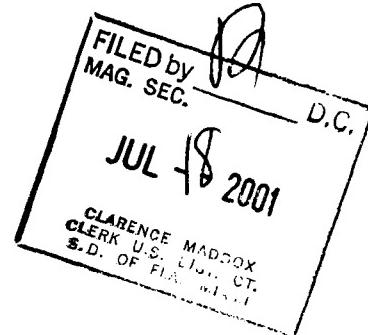
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 01-3179-Bandstra

UNITED STATES OF AMERICA

vs.

MICHAEL NYBERG



CRIMINAL COVER SHEET

1. Did this case originate from a matter pending in the United States Attorney's Office prior to April 1, 1999? Yes No
2. Did this case originate from a matter pending in the Central Region of the United States Attorney's Office prior to April 1, 1999? Yes No

Respectfully submitted,

GUY A. LEWIS
UNITED STATES ATTORNEY

BY:

Yvonne Rodriguez-Schack
YVONNE RODRIGUEZ-SCHACK
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 0794686
99 N. E. 4th Street
Miami, Florida 33132-2111
TEL (305) 961-9014
FAX (305) 530-7976

United States District Court

SOUTHERN

DISTRICT OF

FLORIDA

UNITED STATES OF AMERICA

v.

CRIMINAL COMPLAINT

MICHAEL NYBERG

CASE NUMBER: 01-3179-Bandstra

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. From on or about July 16, 2001 through July 18, 2001, in Miami-Dade County, in the Southern District of Florida, the defendant used the mail or any facility or means of interstate or foreign commerce of the United States to knowingly persuade, induce, entice, or coerce any individual who has not attained the age of 18 years, to engage in a sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

I further state that I am a Special Agent and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT



TIMOTHY P. DEVINE
TIMOTHY DEVINE, SPECIAL AGENT
UNITED STATES SECRET SERVICE
JULY 18, 2001

Sworn to before me, and subscribed in my presence,

JULY 18, 2001

Date

at Miami, Florida

City and State

TED E. BANDSTRA
UNITED STATES MAGISTRATE JUDGE

Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, Timothy R. Devine, being first duly sworn upon oath, do hereby depose and state as follows:

1. I am a Special Agent of the United States Secret Service (USSS) and have been so employed for approximately two years. I am currently assigned to the Miami Field Office of the USSS. My duties include the investigation of access device fraud, computer fraud violations, and other criminal matters. I submit this affidavit based upon information known to me personally from investigation, as well as information obtained from others who have investigated this matter and/or have personal knowledge of the facts herein.
2. This investigation is part of an undercover operation that was initiated by the Dade County School Board Police and the High Technology / Violent Crimes Task Force of the United States Secret Service. I have participated in this investigation, spoken with other law enforcement agents, and have reviewed documents and transcripts of Internet communications related to this investigation. Because this affidavit is being submitted for a limited purpose of establishing probable cause, I have not included every aspect, fact, or detail of this investigation.
3. I know from my training and experience that "Yahoo" Internet Relay Chat is a computer program that permits individuals with access to the Internet to electronically communicate with each other in real time ("chats"). Users of this program choose names with which to identify themselves ("usernames" or "screen names") during communications with other users.
4. On 07/16/01, at approximately 3:00 P.M., a Dade County School Board Officer informed me he was signed onto the Yahoo Internet Relay Chat on a computer at the United States Secret Service Miami Field Office, using the female undercover name "Amy13Miami." The School Board Officer entered the "Miami Room" of the Yahoo Internet Relay Chat and was contacted by the individual with the username "Nydami." The individual with the username "Nydami" initiated a private chat, or electronic communication, with

“Amy13Miami.” During this chat session, “Amy13Miami” identified herself as a 13-year-old girl named “Amy” from Miami. The individual with the username “Nydami” stated he was a 21-year-old male from North Miami. During this chat, the individual identifying himself as “Nydami” initiated conversation regarding female masturbation and asked “Amy13Miami” to perform masturbation. “Amy13Miami” advised the “Nydami” user that she was not familiar with masturbation. The individual identifying himself as “Nydami” then instructed “Amy13Miami” on the method of performing female masturbation.

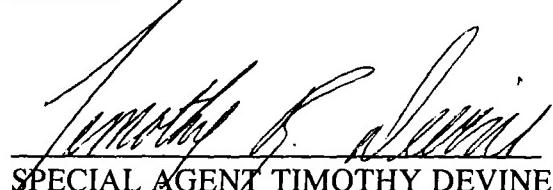
5. Continuing on 07/16/01, a Dade County School Board Officer informed me he was signed onto the Yahoo Internet Relay Chat on a computer at the United States Secret Service Miami Field Office, using the female undercover name “Amy13Miami.” The School Board Officer entered the “Yahoo” Internet Relay Chat and was engaged in private chat with the individual identifying himself as “Nydami.” During this chat, the School Board Officer stated that “Amy13Miami” was a 13-year-old female. The individual identifying himself as “Nydami” stated he did not mind. The individual identifying himself as “Nydami” repeatedly asked “Amy13Miami” to call him. The individual identifying himself as “Nydami” stated he had some pictures of himself holding his “dick.” The individual identifying himself as “Nydami” stated he would not send the pictures of himself until he heard “Amy13Miami’s” voice because if she were a policeman, he would go to jail.
6. On 07/17/01, a Dade County School Board Officer informed me he was signed onto the Yahoo Internet Relay Chat on a computer at the United States Secret Service Miami Field Office, using the female undercover name “Amy13Miami.” The School Board Officer entered the “Yahoo” Internet Relay Chat and was engaged in private chat with the individual identifying himself as “Nydami.” The individual identifying himself as “Nydami” again asked “Amy13Miami” to call him and stated he was going to “lick her pussy.” “Nydami” further stated to “Amy13Miami” he wanted to take off her panties and “suck on her nipples,” and asked her if he could “cum on her.” During the

chat "Nydami" stated he had sent a picture to "Amy13Miami's" email account and asked her to check it out. This account, was provided to "Nydami" on 7/16/01 and is an undercover account for the Dade County School Board Police. The individual identifying himself as "Nydami" stated he had to meet "Amy13Miami" at her "window or something" and asked to come inside her house. Upon entering the house, "Nydami" stated he wanted to lick "Amy13Miami's" pussy and make her "cum." Agents of this service, using the undercover username "Amy13Miami," arranged to meet the individual identifying himself as "Nydami" at 12:30 A.M. on 07/18/01. "Nydami" stated he would pick up "Amy13Miami," bring her to his house, and "lay her down and suck all over her."

7. Continuing on 07/17/01, Agents of this Service and the Dade County School Board accessed the undercover email account and opened an email message from "Nydami." The Header information contained on the email message identified "Nydami" as Mike Nyberg.
8. On 07/18/01, Agents of this Service signed onto the Yahoo Internet Relay Chat via a computer at the United States Secret Service Miami Field Office, using the female undercover name "Amy13Miami." Agents of this Service, as "Amy13Miami," contacted the individual identifying himself as "Nydami" via private chat. "Nydami" stated he could meet "Amy13Miami" in 30 minutes and stated he was driving a white Cavalier. "Nydami" agreed to meet at the Royal Oaks Park, located at NW 87th Ave. and 165th Street. "Nydami" then provided his cell phone number to "Amy13Miami," and agreed to meet by the monkey bars of the Royal Oaks Park.
9. Continuing on 07/17/01, at 12:30 A.M., Agents of this service instituted surveillance of Royal Oaks Park. An agent of this service, acting in an undercover capacity as "Amy13Miami," was positioned in the area located near the monkey bars of the park.

10. Continuing on 07/17/01, at 2:15 A.M., Agents of this service observed a white Cavalier approach and park in the parking area of the Royal Oaks Park. Agents of this service observed a white male exit the vehicle and walk towards the undercover agent posing as "Amy13Miami." Agents approached the white male, identified themselves, and detained the subject.
11. The subject, identified as Michael Nyberg, was advised of his Miranda Rights, which he waived both verbally and in writing. Nyberg stated he uses the username "Nydami" for Yahoo Internet Relay Chat. Nyberg stated he had initiated contact on Yahoo Internet Relay Chat with "Amy13Miami" via private chat and believed she was a 13-year-old female. Nyberg stated that on 07/16/01, he initiated sexually explicit conversation with "Amy13Miami." Nyberg stated on 07/17/01 and 07/18/01, he agreed to meet "Amy13Miami," with the intent to transport her to his residence and have sex with her.

FURTHER AFFIANT SAYETH NAUGHT.



SPECIAL AGENT TIMOTHY DEVINE
UNITED STATES SECRET SERVICE

SWORN TO BEFORE ME THIS
18TH DAY OF JULY, 2001



TED E. BANDSTRA
UNITED STATES MAGISTRATE JUDGE

FILED by
MAG. SEC. *[Signature]*
D.C.
JUL - 18
2001
CLARENCE MADDUX
CLERK U.S. DISTRICT COURT
S.D. OF FLA. MIAMI
01-3179-BIA/TRA

UNITED STATES DISTRICT COURT
Southern District of FloridaUNITED STATES OF AMERICA
Plaintiff

-vs-

michael dane nybag, sr
Defendant

Case Number: CR

REPORT COMMENCING CRIMINAL
ACTION

67568-004

TO: Clerk's Office MIAMI FT. LAUDERDALE W. PALM BEACH
U.S. District Court (circle one)NOTE: CIRCLE APPROPRIATE LOCATION FOR APPEARANCE IN
MAGISTRATES COURT ABOVE --All items are to be completed. Information not applicable or
unknown will be indicated "N/A".(1) Date and Time of Arrest: 7-18-01 - 2:00 am pm(2) Language Spoken: English(3) Offense(s) Charged: 18 USC 2422 - Soliciting A minor(4) U.S. Citizen Yes No Unknown(5) Date of Birth: 8-31-79

(6) Type of Charging Document: (Check one)

 Indictment Complaint To be filed/~~Already filed~~
Case # Bench Warrant for Failure to Appear Probation Violation Warrant Parole Violation WarrantOriginating District: Southern Dist. of FloridaCOPY OF WARRANT LEFT WITH BOOKING OFFICER YES NOAmount of Bond: \$ 80,000.00 (100/10)Who set Bond: AUSA Livingston(7) Remarks: *V/JP*(8) Date: 7-18-01 (9) Arresting Officer: T. Devine(10) Agency: U.S. SECRET SERVICE (11) Phone: 305-629-1802

(12) Comments: